

Senate Bill 275

By: Senators Seabaugh of the 28th, Zamarripa of the 36th and Pearson of the 51st

A BILL TO BE ENTITLED
AN ACT

To amend Title 36 of the Official Code of Georgia Annotated, relating to local government, so as to provide for the incorporation of townships; to change certain provisions regarding incorporation of municipalities; to provide for definitions; to provide for procedures, conditions, and limitations; to provide for applicability of certain definitions regarding municipal corporations; to provide for legislative intent; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Title 36 of the Official Code of Georgia Annotated, relating to local government, is amended by striking Code Section 36-30-1, relating to definitions regarding municipal corporations, and inserting in its place a new Code Section 36-30-1 to read as follows:

"36-30-1.

(a) As used in this Code section, the term 'town' shall not mean any township created on or after July 1, 2005, pursuant to Article 2 of Chapter 31 of this title.

(b) Wherever the words 'city,' 'town,' 'municipality,' or 'village' appear in the statutory laws of this state, such words shall be construed as synonymous, and the General Assembly so declares this to be its intention in the use of these words; such words shall be held to mean a municipal corporation as defined by statutory law and judicial interpretation."

SECTION 2.

Said title is further amended by striking subsection (a) of Code Section 36-31-2, relating to minimum distance between proposed corporate boundaries, and inserting in its place a new subsection (a) to read as follows:

"(a) No local Act granting a municipal charter shall be enacted wherein any part of the proposed corporate boundary is less than three miles distance from the corporate boundary of any existing municipal corporation in this state; provided, however, that, if the residents

1 of a certain geographical area within three miles of an existing municipal corporation have
2 been denied annexation to the municipal corporation by the people of the municipal
3 corporation, the residents of such geographical area shall be entitled to incorporate a new
4 municipal corporation at any time within 12 months after such denial, and a local Act
5 granting a municipal charter may be enacted; provided, further, that the population of the
6 area proposed to be incorporated must exceed the population of the existing municipal
7 corporation, and a certificate from the governing authority of the existing municipal
8 corporation or from the judge of the superior court of the county, evidencing the denial of
9 annexation and the population figures, must accompany the certificate of incorporation
10 required by this ~~chapter~~ article."

11 **SECTION 3.**

12 Said title is further amended by striking Code Section 36-31-5, relating to minimum
13 standards certificates, and inserting in its place a new Code Section 36-31-5 to read as
14 follows:

15 "36-31-5.

16 Every local law granting an original municipal charter shall have attached thereto a
17 certificate by the author of the bill stating that the minimum standards required by this
18 chapter exist as to the area embraced. Existence of the standards may be determined, as
19 to population, by estimate based on the number of dwellings in the area multiplied by the
20 average family size in the area, as determined by the last preceding federal census or by
21 other reliable evidence acceptable to the author. As to development of the area, existence
22 of the standards may be determined by estimate based on actual survey, county maps or
23 records, aerial photographs, or some other reliable map acceptable to the author. The
24 certificate shall be a permanent part of the charter and shall constitute conclusive evidence
25 of the existence of the standards required by this ~~chapter~~ article."

26 **SECTION 4.**

27 Said title is further amended in Chapter 31, relating to incorporation of municipal
28 corporations, by designating Code Section 36-31-1 through 36-31-5 as Article 1 thereof, and
29 by adding a new article immediately following Article 1, to be designated Article 2, to read
30 as follows:

"ARTICLE 2

36-31-20.

As used in this article, the term 'owner' shall not include in his or her capacity as such any mortgagee, any lien holder, any person having an equitable interest under any contract for the sale or lease of property within the proposed municipal corporation, or any lessee or tenant.

36-31-21.

The General Assembly finds and declares that:

(1) Healthy, growing municipal corporations are vital to the economy and well-being of the State of Georgia;

(2) Municipal corporations provide important services such as police, fire, water, sewer, parks and open space, development planning, and vibrant downtowns and commercial nodes that define the local quality of life;

(3) Municipal corporations are the form of government closest and most accessible to the people and many people desire to be part of a municipal corporation so that they can more adequately participate in the governance of their community; and

(4) The formation of municipal corporations should be encouraged to respond to the pressures of growth, demand for services, and desire for self-governance and self-determination by providing for alternative classes of municipal corporations.

36-31-22.

(a) Notwithstanding any provision of Article 1 of this chapter to the contrary, the General Assembly may incorporate townships by local Act in accordance with this Code section without the necessity of the proposed incorporation meeting the requirements of Article 1 of this chapter. Any such municipal corporation shall be known as the 'Township of _____.'

(b)(1) In order to be incorporated as a township under this Code section, a proposed township must be of at least 1,000 contiguous acres in size and must have a comprehensive master plan for the development of such township which provides for both present and future residential, commercial, industrial, institutional, and governmental development. Included with such master plan shall be covenants and deed restrictions as necessary to ensure the development of the township in accordance with such comprehensive master plan. In addition, at least 30 percent of the land area within the proposed corporate boundaries of the township shall be dedicated as greenspace as defined in paragraph (3) of Code Section 36-22-2, as amended.

(2) The township charter shall identify one or more individuals who shall serve as the initial governing authority of the township. Such individuals shall be owners of property within the proposed township but need not reside there.

(3) A township which is incorporated pursuant to this Code section shall have all powers of a municipality incorporated as a municipal corporation except that no township shall:

(A) Be considered a qualified municipality under Code Section 48-8-80; or

(B) Activate or establish any authority, agency, or district under Chapter 42, 43, 44, 61, 63, or 64 of this title.

(4) A township which is incorporated pursuant to this Code section shall adopt and enforce ordinances which meet or exceed the development standards of the county with respect to trees, landscape or stream buffers, the construction of roads and streets, the construction of water and sewerage infrastructure, and the regulation of land-disturbing activity as defined in paragraph (9) of Code Section 12-7-3, as amended.

(5) Notwithstanding any provision of Code Section 36-70-28 to the contrary, any township incorporated pursuant to this Code section shall be subject to the service delivery strategy in place at the time of incorporation. In the event that the township otherwise meets the requirements of an affected municipality at the time of a subsequent negotiation of the service delivery strategy pursuant to the provisions of Article 2 of Chapter 70 of Title 36, such township shall be entitled to participation in the approval process of such strategy.

(6) In the event that part or all of the geographic area of the township incorporated pursuant to this Code section comprises part or all of a special service district or special tax district of a county, such geographic area shall remain subject to the special service district or special tax district unless otherwise agreed by the governing authority of the county and the governing authority of the township.

(c) After three years of meeting the standards set forth in Code Sections 36-31-3 and 36-31-4, a township incorporated under this Code section may be issued a new charter as a municipal corporation within the meaning of Article 1 of this chapter without regard to the requirements of Article 1 of this chapter.

(d) Every local Act granting an original charter to a township pursuant to this Code section shall have attached thereto a certificate by the author of the bill that the requirements of this Code section have been met and such certificate shall be a permanent part of the charter and shall constitute conclusive evidence that such requirements have been met."

SECTION 5.

All laws and parts of laws in conflict with this Act are repealed.